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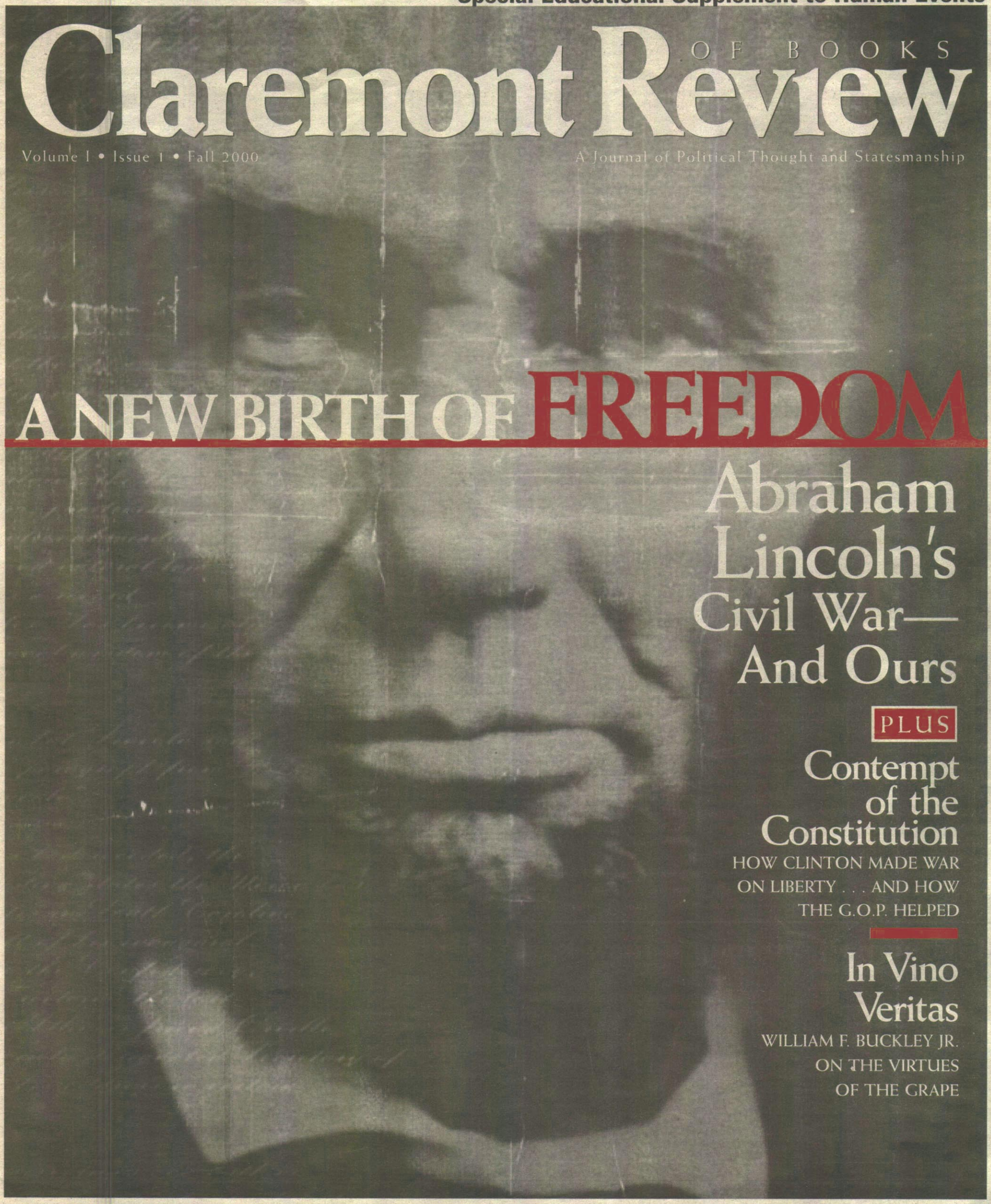
Claremont Review OF BOOKS

Volume I • Issue 1 • Fall 2000

A Journal of Political Thought and Statesmanship



A NEW BIRTH OF FREEDOM

Abraham Lincoln's Civil War— And Ours

PLUS

Contempt of the Constitution

HOW CLINTON MADE WAR ON LIBERTY . . . AND HOW THE G.O.P. HELPED

In Vino Veritas

WILLIAM F. BUCKLEY JR. ON THE VIRTUES OF THE GRAPE

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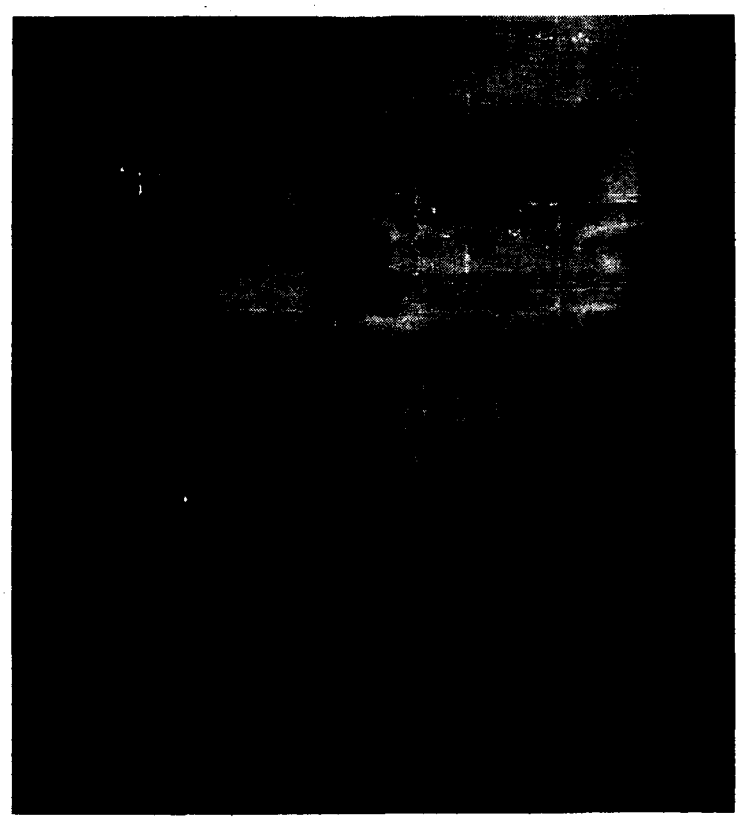

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COVER STORY

A NEW BIRTH OF FREEDOM

BY CHARLES R. KESLER

More than 40 years ago, Harry V. Jaffa published Crisis of the House Divided, his now-classic interpretation of the Lincoln-Douglas debates. In the preface to that book, Jaffa promised a sequel. Now he's fulfilled that promise with a new commentary on Lincoln's political principles. **PAGE 8**

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The Claremont Review of Books, Vol. 1, [illegible] & November 28, 2000. (Printed in the United States on November [illegible], 2000.) Published quarterly by the Claremont Institute for the Study of Statesmanship and Political Philosophy.

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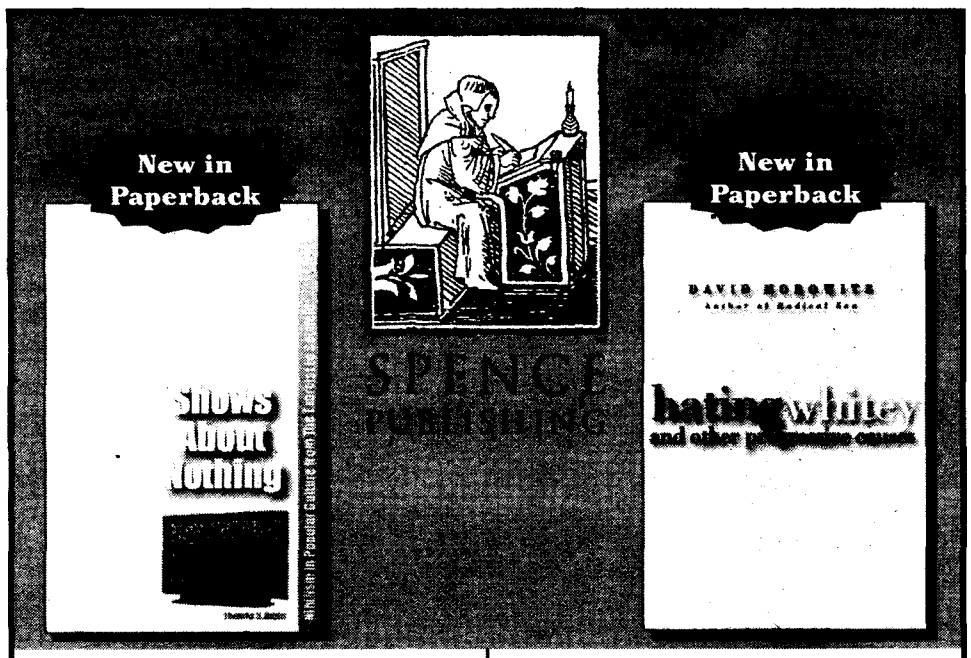

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FROM THE EDITOR'S DESK

In Defense of Constitutional Democracy

BY CHARLES R. KESLER

Until recently, I had no idea how much liberal Democrats love Election Day. They enjoy it so much they want it to go on for weeks, at least in select Florida counties. It's difficult to detect a similar enthusiasm for Constitution Day, alas, but then today's liberals believe in a "living" and "growing" Constitution, so perhaps for them every day is Constitution Day — the celebration of that day's Constitution, or of that day's election returns tweaking the Constitution.

The 20th century has been, on the whole, the century of modern liberalism. You've probably heard the wisecrack that the only thing liberalism is concerned to liberate modern man from is his marriage contract. Not so, I'm afraid. Born in the Progressive movement and fastened on the country in subsequent bursts of political and cultural change, liberalism has sought a more comprehensive liberation — from the Declaration of Independence, the Constitution, and the moral principles that inspired and in turn were inspired by them.

The Claremont Review of Books, whose inaugural issue you hold in your hands, seeks to restore the principles of the American founding to their rightful, preeminent place in our national life. Why a book review, you might ask? Because it is a format that conservatives have not exploited, and we think that conservatives need, persistently and farsightedly, to wage the battle of ideas at the level of ideas rather than merely at the level of particular policies, important as these are. The galaxy of conservative journals and think-tanks will continue to shine brightly, of course, illuminating ideas as well as issues. But every month important conservative books and arguments languish, liberal tomes escape censure, and intelligent works of biography, history, politics, and literature remain unexamined. We aim to change that, to the best of our ability.

At the same time, we intend in each issue to reflect on current contentions and help reawaken in American politics, and especially in American conservatism, a forthright devotion to the Constitution and the principles of our political tradition. We believe this essential if conservatism is to understand its own majestic purposes, as well as to become a more effective political force.

The disorder in Florida is, in one sense, nothing unusual. Disputes over a close election happen frequently in American politics, and the vitriol and mistrust generated in this election and its strange sequel hardly match the bitter passions unleashed in the election of 1800. That contest, you may recall, ended with a deadlock in the Electoral College that had to be resolved by the House of Representatives, which took 36 ballots over six days to decide that Thomas Jefferson, not Aaron Burr, would be President. The incumbent, John Adams, was already out of the running, having come in third in the electoral vote. Yet in his magnificent Inaugural Address, Jefferson began to heal the country's wounds by reminding his fellow citizens that not every difference of opinion is a difference of principle. "We have called by different names brethren of the same principle," he explained. "We are all republicans — we are all federalists."

The principle that bound, and continues to bind, political parties together in America is allegiance to the Constitution and the moral framework of republican government. What is disturbing about the election of 2000 was how thin that allegiance sometimes seemed. In the week after so-called Election Day, Vice President Gore's spokesmen repeatedly suggested that because Gore had won a plurality (so far) of the nationwide popular vote, he somehow must have won Florida's popular vote, whether or not the election tally confirmed it. Furthermore, they suggested, his national plurality meant that he somehow deserved Florida's electoral votes and thus the presidency.

In other words, it was not how Americans actually voted but how they meant to — or should have — voted that counts. This is a theory that hitherto has been at home only in banana republics and the phony "people's republics" of the Communist world. Doubtless the Gore spokesmen got carried away by the passions of the moment, but it's still interesting to see where they got carried away to. In any event, they never backed down from the notion that the moral high ground was held by the popular vote, not by the Electoral College.

So it is not surprising to hear that the senator-elect from New York, Hillary Rodham Clinton, promises that her first official act will be to support an amendment to abolish the Electoral College. You have to hand it to her. First, health care; now the Electoral College. She really has an itch to fix things that aren't broken. In either case, her prescriptions would be a disaster.

The Electoral College is a crucial part of the Framers' machinery for combining democracy with constitutionalism and the rule of law. It ensures that the president will be chosen not by a plebiscitary majority but by a constitutional one, distributed by states and moderated by the need to accommodate a variety of interests and viewpoints. Without the Electoral College, our political party system would fragment, smaller and more extremist parties would proliferate, and election fraud would multiply enormously. To abolish the Electoral College would be to strike at the heart of the Constitution.

Besides, if Bush wins the Electoral College but loses the popular vote, he would have been elected by the constitutional majority, the only majority that has ever governed the United States as a free country.

Indeed, this is not really a question of democracy. The principles of one man, one vote, majority-rule democracy apply scrupulously in every state. Whoever finally wins the popular presidential vote in Florida will win Florida's electoral vote, period. In truth, the issue is democracy with federalism (the Electoral College) versus democracy without federalism (a national popular vote).

In the end, the current struggle shows how willing the Clintonized Democratic Party is to break all the customary, unwritten rules of our constitutional democracy for the sake of partisan victory. These habitual rules are fostered by the Constitution, and nourish it in turn. Whatever else might be said about Mrs. Clinton, her willingness now to assault the letter of the Constitution is only the next step in the campaign waged by her husband and Al Gore against its spirit.

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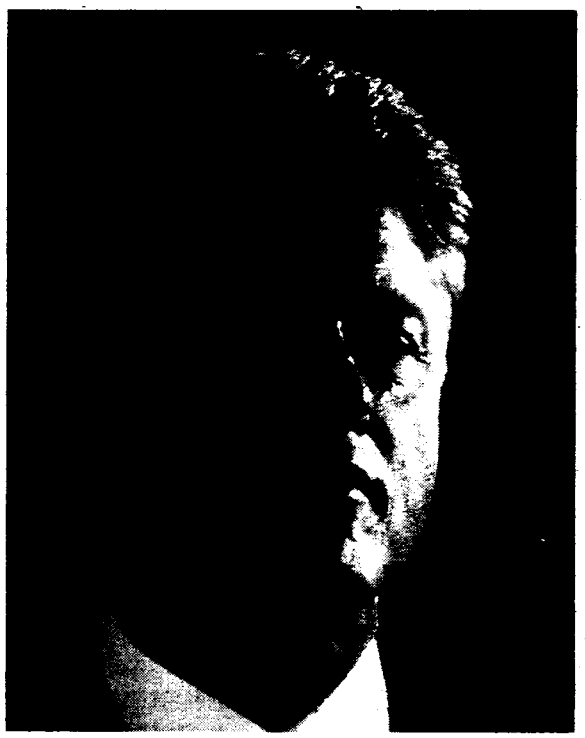

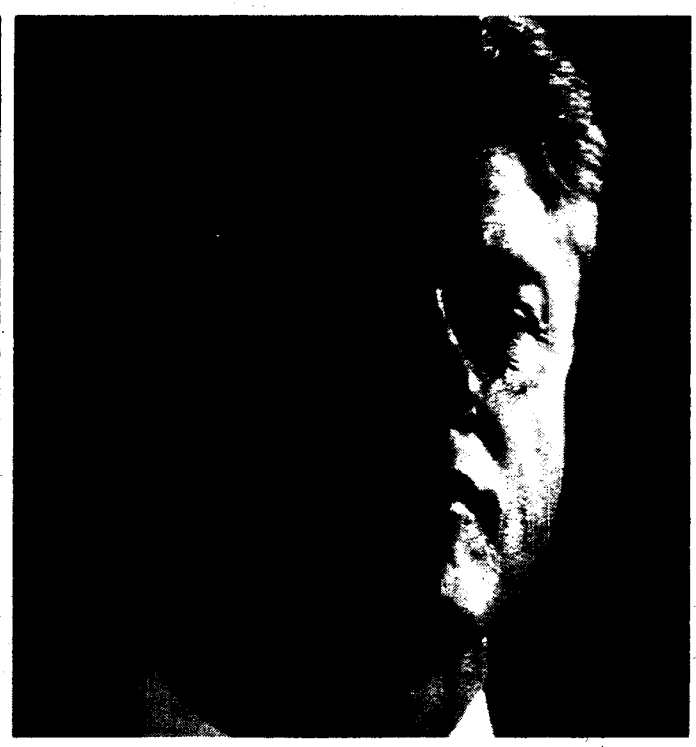

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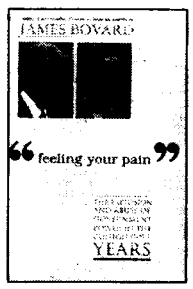
Who's Sorry Now?

BILL CLINTON RAN ROUGHSHOD OVER THE CONSTITUTION IN THE SERVICE OF A CYNICAL 'POLITICS OF CARING.' AND THE REPUBLICANS HELPED.

BY BEN BOYCHUK



Feeling Your Pain: The Explosion and Abuse of Government Power in the Clinton-Gore Years, by James Bovard. (New York: St. Martin's Press, 2000) 426 pp., $26.95, (cloth)

Sell Out: The Inside Story of President Clinton's Impeachment, by David P. Schippers with Alan P. Henry (Washington D.C.: Regnery Publishing Inc., 2000), 338 pp., $27.95, (cloth)

As the Age of Clinton comes to a merciful end, speculation about the disgraced president's legacy is a favorite pastime of tavern pundits, armchair historians, and political scientists. But for Clinton himself it is apparently an obsession.

Just ten days before the November election, *Esquire* magazine published its "exclusive" interview with the President. The press seized on his petulant remark that the Republicans "never apologized to the country for impeachment," Clinton had said more or less the same thing to Joe Klein in his "exclusive" for *The New Yorker*, to a reporter from Israeli television in July, and to a few hundred newspaper editors at a convention last April.

But the most extravagant and revealing of the President's remarks drew little comment. "You have to understand," Clinton told the American Society of Newspaper Editors, "I consider [impeachment] one of the major chapters in my defeat of the revolution Mr. Gingrich led, that would have taken this country in a very different direction than it's going today, and also would have changed the Constitution forever, in a way that would have been very destructive of the American people."

Just how much the Constitution and the American people have fared over the past eight years, is the theme of James Bovard's *Feeling Your Pain: The Explosion and Abuse of Government Power in the Clinton-Gore Years*, and David P. Schippers' *Sell Out: The Inside Story of President Clinton's Impeachment*.

Bovard is a libertarian journalist of the H.L. Mencken school whose previous books include *Lost Rights and Freedom in Chains*. Schippers is a lawyer and a lifelong Chicago Democrat who served as Chief Investigative Counsel for the House Judiciary Committee during the impeachment crisis.

Bovard has penned an impressive 350-page (plus notes) precis of the corruption of the Clinton-Gore era. Yet he is uninterested in most of the Clintons' headline-grabbing scandals. Although Filegate and Waco get good treatment, Whitewater is mentioned only in passing and impeachment is comes up maybe two or three times. To be sure, Bovard knows that Clinton often confused his personal and political well-being with the fate of the nation. For Clinton, lying under oath about his relationship with a White House intern, for example, was in the service of a greater good — defeating the Republican "Revolution" and securing his place in the pantheon of progressive politics.

But Bovard is more interested in Clinton's larger legacy, what he calls "the principle of government supremacy." Government, in Clinton's words, could be "a progressive instrument of the common good" and could "give all our people the tools to make the most of their own lives." But his policy prescriptions, far from "putting people first," tended to regard citizens as subjects. "More commands, more penalties, and more handouts were the recipe for progress," Bovard writes. "The Clinton administration consistently acted as if nothing is as dangerous as insufficient government power."

Under Clinton's watch, the federal register of regulations quintupled in size, filling more than 80,000 pages. Over 700 new crimes were added to the federal statute books. The federal government consumed more than 21% of the gross domestic product in taxes and Americans carried the largest tax burden since World War II, yet America's defenses slipped steadily. In his eight years, Clinton issued more executive orders than Presidents Reagan and Bush combined, covering a range of policies from Medicare to gun control to implementing the Kyoto global warming treaty — a treaty the Senate never ratified. In fact, Clinton routinely thumbed his nose at the Senate by appointing unconfirmable cronies (remember Bill Lann Lee?) without its advice and consent. He used the Justice Department and the White House Counsel

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BOOK REVIEWS

as his personal law firm. He steadfastly refused to comply with court rulings when it suited him or his favored constituents.

Bovard makes a mockery of the Clinton-Gore effort to "reinvent government." One-hundred thousand cops on the street? Not even close. Americorps' paid "volunteers"? A $500 billion boondoggle staffed by people "barely competent . . . for any task more complex than picking up beer along a highway."

What about the much-vaunted IRS reform of a few years back? Since Clinton took office, the IRS seized more than 12 million bank accounts and paychecks; put liens on over three million homes; confiscated homes, cars and property from more than 100,000 people; used audits to punish individuals and groups critical of the administration; and squeezed citizens out of tens of billions of dollars in taxes they otherwise didn't owe. "We don't give points around here for being good scouts," and IRS instructor tells his students. "Enforcement. Seizure and sales. That's our mind set . . . ."

On the other hand, Bovard deadpans, "taxpayers now have the option making their tax payment checks out to the Treasury Department instead of the IRS."

David Schippers treats the administration's "reinvention" efforts with a bit more gravity. In one of the most revelatory chapters of his book, he shows how the "reinventors" of the Immigration and Naturalization Service sped up the citizenship process of more than a million aliens — including at least 75,000 with criminal records — in time for the 1996 presidential election. The House Judiciary Committee put its investigation of these abuses on hold for the impeachment inquiry. But, as Schippers notes, "Had we been given sufficient time to develop evidence and witnesses, the [Citizenship USA program] matter might have been included in the abuse of power impeachment article." In the end, however, there would be no abuse of power impeachment article.

Impeachment gave the Republican Congress an opportunity to govern, to exercise its role as a coequal branch of government, and to right a serious wrong. As with so many of its opportunities, this one was squandered in the service of "bipartisanship." Today, the Constitution and Congress are weaker for it. Schippers tries to explain why.

Schippers performs a number of services in *Sell Out*. He refutes, once and for all, the imbecilic claim that Clinton's impeachment was "only about sex." More important, he tells the story of how the Republican leadership in the House and Senate — Majority Leader Trent Lott especially — sold out the House Managers and derailed the investigation. Sen. Ted Stevens of Alaska could have been speaking for the entire Senate when he told Rep. Henry Hyde, "I don't care if you prove [Clinton] raped a woman and then stood up and shot her dead — you are not going to get sixty-seven votes." The trial was over before it reached the Senate floor.

But there is plenty of guilt to spread around, and Schippers spares no one from his wrath. "Democrats in both Houses sold out basic principles of law and decency for the sake of protecting one of their own," Schippers writes. "But most distressingly, the President of the United States of America and his White House water boys sold out the American people."

Schippers hints at even more damning evidence against Clinton "under seal for 50 years." He states flatly that had he and his team investigators been given the time and the authority, they were prepared "to document other potentially impeachable offenses completely unrelated to Paula Jones or Monica Lewinsky."

But it didn't happen. And even though polls now show that a majority of Americans supported the House vote to impeach the President, neither Clinton nor the Republicans have drawn the right lessons. The President, for all of his "apologies," is unrepentant. And the Republicans? They'd rather not talk about it.

In the *Esquire* interview, the President claimed that after eight years and $100 million spent on special counsels, grand juries, and sundry congressional probes, "they have yet to come up with one example of official misconduct in office — not one."

But Clinton is half right: the Republicans should apologize to the country — not for impeaching the President, but for making such a botch of the job.

Now Bill Clinton threatens us with the prospect of burdening future generations with his interpretation of events. But Clinton cannot be blamed for everything. He had help. A Republican Congress wrote many of the laws he signed, after all.

A dozen or so centuries from now, historians will assemble in great conclaves to dissect what became of the American Republic at the close of the 20th century. How will they judge American politics? Will they see a change in the habits of the people, in their relationship with their elected officials, in their esteem for their government? Will they note how the politics of "compassion" quietly usurped constitutional government?

Will they agree with James Bovard that "Many Americans concluded that untrustworthy individuals can be trusted with greater power — as long as they promise to do good?" That rigid old Constitution is awkward and inconvenient and unpleasant. It gets in the way of all kind of great ideas, like fixing up schools, "common sense" gun control, and searching people's houses without the benefit of search warrants. Bill Clinton's singular accomplishment was to persuade a large portion of the American people that feeling their pain was more important than the rule of law. That's an unsettling legacy by any measure.

Ben Boychuk is Managing Editor of t the Claremont Review of Books.

Did Tocqueville Understand America?

BY KEN MASUGI

Alexis de Tocqueville, Democracy in America, edited, translated and with an Introduction by Harvey C. Mansfield and Delba Winthrop (Chicago: The University of Chicago Press, 2000), 722 pages, $35.

"A new political science is needed for a world altogether new," Alexis de Tocqueville famously proclaimed. With this splendid new translation of Democracy in America, Harvey C. Mansfield and Delba Winthrop have opened up a new world for scholars and students of Tocqueville's classic, many of whom have had access only through the dated translation of George Lawrence's translation. [illegible] on the [illegible] of the often colloquial [illegible] version reflects to [illegible] ... as now [illegible] to readers with [illegible] confidence [illegible] as it is.

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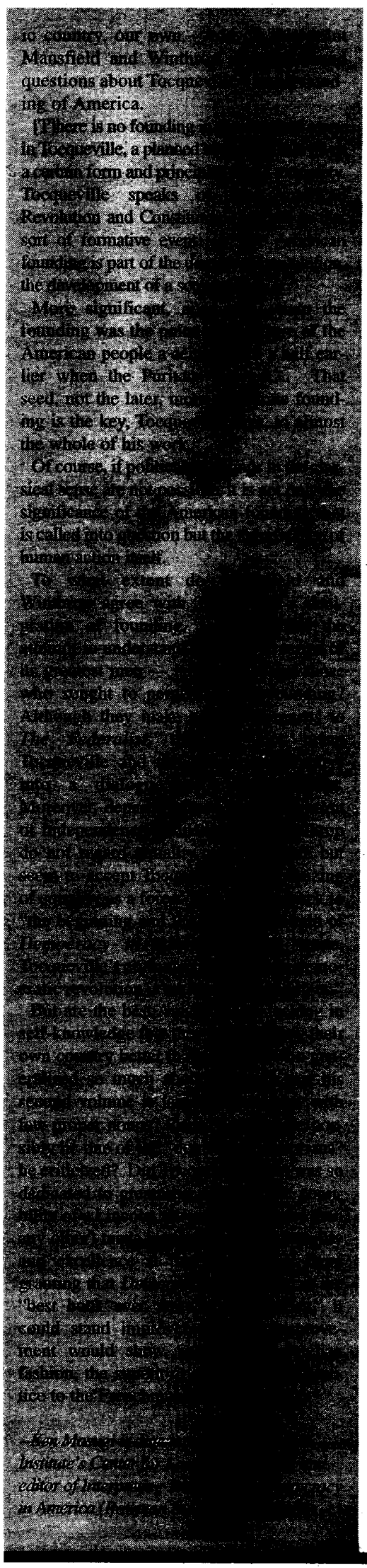

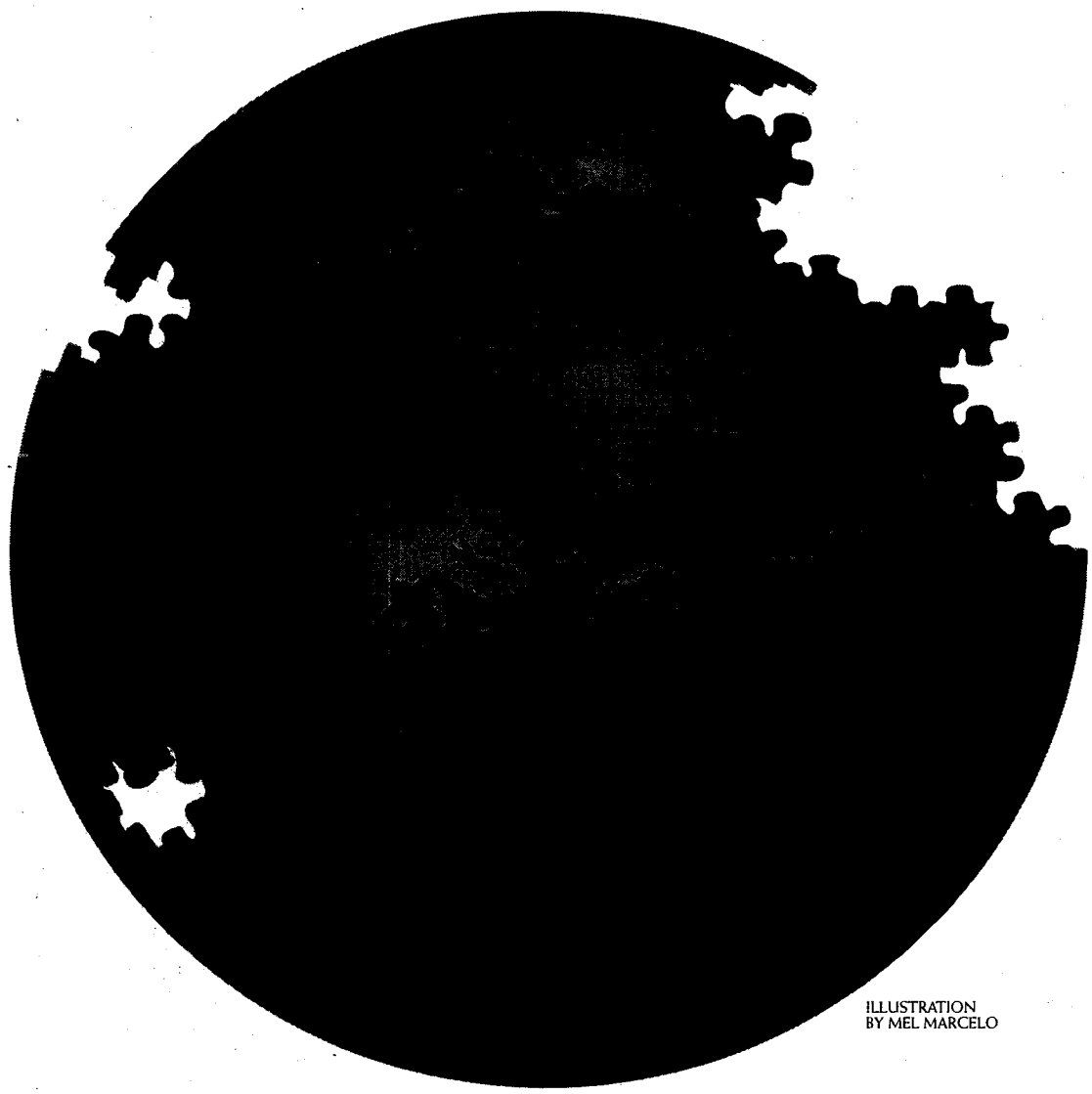

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Gray Matter on Green Affairs

BY STEVEN HAYWARD

Hard Green: Saving the Environment from the Environmentalists—A Conservative Manifesto, by Peter Huber (New York: Basic Books, 2000)
224 pages, $25 (cloth)

Conservation Reconsidered: Nature, Virtue, and American Liberal Democracy
Charles T. Rubin, editor (Lanham, Md: Rowman & Littlefield, 2000) 254 pages., $65.00 (cloth); $24.95 (paper)

The environment has long been an intellectual problem and political albatross for conservatives. In the abstract, nothing should be more natural for a conservative than care for nature. After all, the earliest form of environmental activity—conservationism—shares an obvious etymological root with conservatism. And indeed conservatives initially had some enthusiasm for environmental initiatives. Sen. Barry Goldwater was a member of the Sierra Club for a time in the 1960s, and Sen. James Buckley was an enthusiastic co-sponsor of the Endangered Species Act in 1973, only later coming to regret the law because of its perverse implementation. A prominent conservative delivered a major speech in 1970 on the theme of "the absolute necessity of waging all-out war against the debauching of the environment." That conservative was Governor Ronald Reagan.

In the real world, however, the elevation of the environment into a nature-warping ideology—environmentalism—has compelled conservatives into opposition. No self-respecting conservative can embrace the misanthropic, utopian, centralizing doctrines that drive environmentalism as it is currently constituted. The trouble is that the environment is very popular with the average citizen who approaches the issue from the common sense point of view that clean air, clean water, abundant wildlife and healthy ecosystems are good things. And the common sense view is of course correct. These are good things much too important to be left to the environmentalists. So it is necessary for conservatives to find a way of engaging the issue seriously.

Starting in the 1980s conservatives began to get out of their defensive crouch with the idea of "free market environmentalism," which came in two parts. Bureaucratic regulation of pollution and public ownership of land produced poor results, and often even perverse results. Free markets and private ownership of environmental goods would deliver superior environmental protection. FME (as its devotees call it) has made sufficient headway that the idea of using markets instead of regulation has become widely, if grudgingly, accepted in the environmental establishment, and ferociously attacked by the leftward bastions of environmentalism that remain wedded to socialism.

But FME has limits. There are some "commons problems," such as urban air pollution, where property rights and market exchanges are not easily applied in practice. And even in areas where the abstract principles of FME seem clear—such as assigning property rights to ocean fisheries—in practice such remedies will require politics, at which point most FME devotees get sour looks on their face. At its core, FME derives its energy from a libertarian/public choice disdain for all things political, which means it is a self-limiting doctrine in the end. A more comprehensive account of a conservative environmental ethic is needed.

Peter Huber, senior fellow at the Manhattan Institute and *Forbes* magazine columnist, offers one ambitious view in *Hard Green*: Saving the Environment from the Environmentalists. Huber sets out to establish a new middle ground on the issue that is considerably to the right of where it rests

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today. Huber's argument comes in three parts. He borrows and extends an environmentalist distinction from the 1970s—the distinction between "hard" and "soft" energy sources. "Hard" energy is the traditional kind of fossil fuels — coal, oil, natural gas — and nuclear power that we currently use; "soft" energy—solar, wind, biomass, recycled Ralph Nader speeches—is what the environmental movement advocates. Huber turns the green presumption on its head, arguing persuasively for the environmental superiority of traditional "hard" energy sources over "soft" ones. (The chief advantage is that they use much less land—"Softs prescribe the environmental equivalent of suburban sprawl," Huber rightly notes—and that technology is making their use progressively cleaner.)

Huber broadens the hard-versus-soft distinction on energy into a general outlook: "Hard Greens," such as himself, are concerned with genuine but remediable environmental problems such as air and water pollution and land conservation, while "Soft Greens" are obsessed with "microenvironmental" threats that depend upon a metaphorical understanding of the natural world that is without serious scientific foundation. Vice President Al Gore, among others, endorses the "sandpile" metaphor about human interaction with nature. A single additional grain of sand may cause the entire pile to tumble down catastrophically. But science cannot meaningfully demonstrate such a hypothesis, while the political implication of taking this metaphor seriously is totalitarianism. Huber elegantly discusses the manifold problems of the "sandpile" understanding of nature, culminating in a succinct warning: "A democratic society pays a real price when accurate information and objective reason are displaced by myth and metaphor."

While environmentalists think just about everything is scarce, Hard Greens think there is only one genuine scarcity worth worrying about: wilderness. The third part of Huber's argument is that conservatives should favor public land conservation measures. Although Huber acknowledges the superiority of private land conservation, he thinks that the problem of scale requires a large role for public ownership because of non-market values. "Hard Greens will never call for federal management where private, local, or state initiative will do. But an incontrovertible fact remains: Some values depend on doing things on a scope and scale that is inescapably public." This is the most controversial aspect of Huber's book, in large part because he does not adequately come to grips with the FME criticism that current publicly owned lands have been managed very poorly from an environmental standpoint. Huber writes:

> In every way an accountant, economist, or even an ecologist might measure, Disney would operate Yellowstone much better than the National Park Service. But Yellowstone would be diminished nonetheless. A vital part of its grandeur, and our own, is that it belongs not to Wall Street but to America. Value that inheres in citizenship, nation, patriotism: Such values cannot be contained or conserved in any private market. With such values, to privatize is to destroy.

It is possible to acknowledge that Huber is right about this point while concluding that his argument is incomplete or inadequate. His conservation philosophy is that the government is good at doing nothing, which is indistinguishable from the fundamentalist environmental view that land should be simply locked away from humans. In fact, neither the politics nor the science of land conservation is so simple. So it is dismaying that Huber endorses President Clinton's western landgrabs, saying that Teddy Roosevelt would have approved.

This won't do. A new politics of conservation will require more detailed thought about what kind of principles should be brought to bear on how we decide which lands are given exalted status, and how those lands are managed to preserve their ecological integrity. Professor Charles T. Rubin of Duquesne University (and author of a previous classic, *The Green Crusade*) has assembled a roster of writers who rethink the issue from the beginning in *Conservation Reconsidered*. The essays in this book recall the outlook of the founders of modern conservation in the Progressive Era, such as Gifford Pinchot, John Muir, Aldo Leopold, and of course Teddy Roosevelt, along with an even longer look back at their precursors such as Thoreau, Emerson, and Frederick Law Olmsted. Notwithstanding the policy and scientific defects of Progressive Era conservation ideas, these older conservationists were palpably more serious and substantive than their would-be successors among today's environmentalists (a fact Huber notes in a fulsome dust-jacket blurb for the book).

Above all, the older conservationists actually knew something about the particulars and variousness of nature, unlike many modern environmentalists who merely pose about unitary "nature" from their office suites in northwest DC. This is made most clear in Jeffrey Salmon's comparison of Teddy Roosevelt and Al Gore, concluding that the former wouldn't have much use for the latter. (It is worth noting that Roosevelt gave up on becoming a scientist because of the debased way science was taught at Harvard—only minute laboratory work was considered truly "scientific" at the time—not unlike how contemporary political science discourages countless students from a serious interest in politics.)

But the most important distinction between the older conservationists and today's environmentalists is that the Progressives didn't view man as the enemy of nature as the moderns do. For Continued on page 13

Can We Talk?

BY GLENN ELLMERS

The New Progressive Era: Toward a Fair and Deliberative Democracy, by Peter Levine (Lanham, Md.: Rowman & Littlefield, 2000), 304 pages, $19.95 (paper).

At a recent conference on "The Legacy of the Progressive Tradition," held at Princeton University (Woodrow Wilson's old stamping ground), President Clinton delivered some thoughts on the ambitious movement that transformed out politics a century ago.

The heart of Progressivism, Clinton said, was "the idea that new conditions demand a new approach to government." And unsurprisingly, Clinton declared himself a leader in recognizing and implementing such a novel approach today. Neither liberal, exactly, nor quite conservative, "Al Gore and I believed that we had to find a new way, something now popularly called around the world, 'a third way.'"

This pronouncement echoed his 1998 State of the Union message, when he claimed that his great accomplishment was to have "moved past the sterile debate between those who say government is the enemy and those who say government is the answer." Clinton's Third Way seeks to pare back the excesses of the administrative state, while still using government to strengthen civil society. Under the Third Way, state and society are amalgamated in "public-private partnerships" in order to produce a superior arrangement that satisfies the needs of each while transcending both. Thus, we are entering, Clinton announced at Princeton, "the new Progressive Era."

This is a popular term these days, as evidenced by a spate of books invoking it. The latest is Peter Levine's *The New Progressive Era: Toward a Fair and Deliberative Democracy*. Levine, a research scholar at the Institute for Philosophy and Public Policy, sees parallels with the old Progressive movement that can guide and inspire our politics today. At the turn of the century, Teddy Roosevelt and Woodrow Wilson declared that the outmoded ways and institutions of the past—limited government, property rights, constitutionalism—could not deal adequately with the new problems presented by big corporations, urbanization, and industrialization.

Today, the globalization of the economy, surging technology, and the dissipation of traditional cultural institutions again demand fresh thinking, Levine argues. Neither the Right's individual liberty and free markets nor the Left's collectivism and bureaucratic government answer our present needs. Both leave people isolated, cynical, suspicious, and narrowly self-interested.

Levine seeks new or better ways to build trust, conversation, and consensus that will restore responsible government and invigorate civic life. Like Clinton's embrace of both welfare reform and national health care, Levine's proposals mix liberal and conservative nostrums. He urges greater participation in voluntary associations, more responsible public affairs journalism, stronger unions, and radical campaign finance reform. At the same time, he advocates rolling back the regulatory state, simplifying the tax code, and prohibiting congressional delegation of authority to bureaucracies. Above all, Levine wants to achieve a new democratic consensus by empowering citizens to deliberate on the common good.

Well, "Jaw, jaw, jaw is better than war, war, war," Winston Churchill famously said. But if enlightened deliberation about the common good is something more than demagoguery or mere blather, some standards must inform it. And it is disagreement over these standards, not lack of information or fresh thinking, that complicates our public debates.

Not so long ago, arguments about justice—indeed moral arguments in general—recurred to the standard of nature. Today, however, in the schoolhouse, the courthouse, and the White House the idea of nature as a moral compass is usually dismissed as nonsense. In elite America at least, "history" has replaced nature as the standard for moral judgments. This is a legacy of the Progressive Era, whose philosophers, journalists, and political scientists, in awe of modern economic and technological developments, rejected the idea that nature supplied permanent principles to guide politics.

Levine's *The New Progressive Era* rests comfortably, if not quite securely, on this same premise. Early in the book, he quotes the foremost of the progressive philosophers, John Dewey. There are no permanent principles in politics, because, as Levine asserts on Dewey's authority, "consequences vary with conditions; hence at one time and place a large measure of state activity may be indicated and at another time a policy of quiescence and *laissez-faire*... There is no antecedent universal proposition which can be laid down because of which the functions of a state should be limited or expanded."

This doesn't mean that there are no moral questions. Indeed, the major thrust of Levine's book is that Americans don't engage in enough serious discussion about moral issues. It is just that this moral debate has no foundation sturdier than the air on which our earnest dialogue floats. "Some moral positions (for example, abhorrence Continued on page 13

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COVER STORY

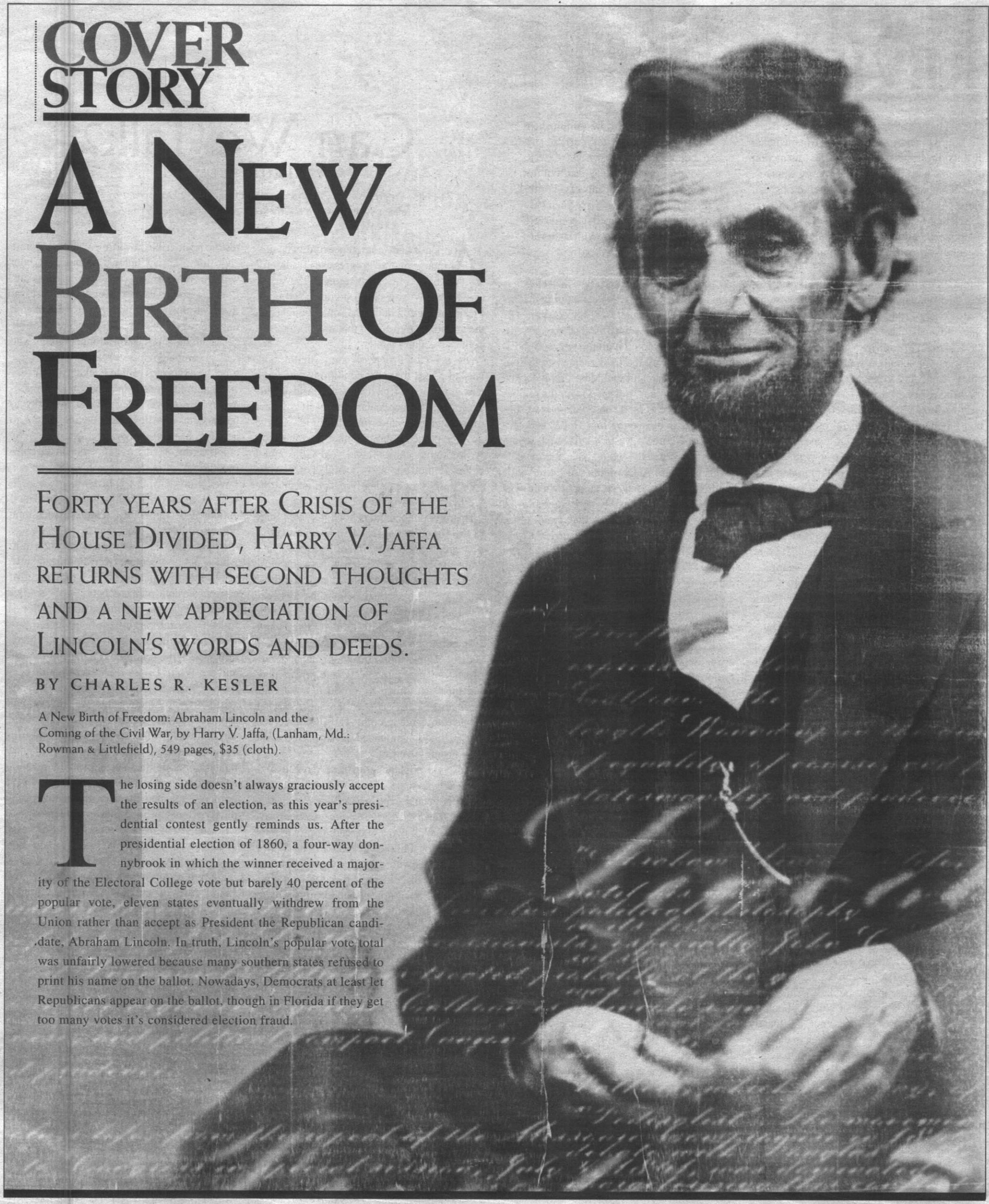
A New Birth of Freedom

Forty years after Crisis of the House Divided, Harry V. Jaffa returns with second thoughts and a new appreciation of Lincoln's words and deeds.

BY CHARLES R. KESLER

A New Birth of Freedom: Abraham Lincoln and the Coming of the Civil War, by Harry V. Jaffa, (Lanham, Md.: Rowman & Littlefield), 549 pages, $35 (cloth).

The losing side doesn't always graciously accept the results of an election, as this year's presidential contest gently reminds us. After the presidential election of 1860, a four-way donnybrook in which the winner received a majority of the Electoral College vote but barely 40 percent of the popular vote, eleven states eventually withdrew from the Union rather than accept as President the Republican candidate, Abraham Lincoln. In truth, Lincoln's popular vote total was unfairly lowered because many southern states refused to print his name on the ballot. Nowadays, Democrats at least let Republicans appear on the ballot, though in Florida if they get too many votes it's considered election fraud.



COVER. PHOTO ILLUSTRATION BY MARTIN GEE. PHOTOGRAPH: © CORBIS.

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COVER STORY

What Southern Democrats resented in 1860, however, was not that Lincoln had been elected with a mere plurality of the popular vote but that he, and his party, were pledged to resist the further spread of slavery in the United States and its territories. Adding insult to injury, so far as the Southerners were concerned, the Republicans resisted slavery's spread because they rejected slavery itself as a moral and political evil. From this moral condemnation and its practical consequences, Lincoln refused to budge. He insisted time and again that he had neither the intention nor the power to interfere with slavery in the states where it already existed. But he would not recognize slavery's right to subdue the western territories, much less to bestride the Union itself; and the South would, in the end, accept nothing less.

"And the war came." With this somber sentence from Lincoln's Second Inaugural Address, Harry V. Jaffa begins his magisterial new book on Lincoln's presidency. More than 40 years ago, Jaffa published *Crisis of the House Divided*, his interpretation of the Lincoln-Douglas debates, which quickly became recognized as a classic study not only of Lincoln's statesmanship but also of American politics in general. In the preface to *Crisis*, Jaffa promised a sequel — a promise he now fulfills.

In the intervening decades, he composed studies of Shakespeare and Churchill and issued brilliant and increasingly polemical collections of essays: *Equality and Liberty, The Conditions of Freedom* (both now reprinted by the Claremont Institute), *How to Think About the American Revolution, American Conservatism and the American Founding, Original Intent and the Framers of the Constitution: A Disputed Question*, and most recently *Storm Over the Constitution*. Though occasionally splenetic and vainglorious, these essays marked a steadily advancing interpretation of the American founding, as Jaffa fought and thought his way through to a fresh understanding of the political principles on which Lincoln had taken his stand.

A New Birth of Freedom is the culmination of these reflections on America, and the distillation of Jaffa's complex second thoughts about Lincoln. It seems to have taken him this long to get clear on what, after *Crisis*, he had left to say about Lincoln's genius. He has plenty to say, it turns out, though his new appreciation consists largely in the discovery that Lincoln was a more profound but less original thinker than Jaffa had argued in *Crisis*.

Jaffa doesn't draw attention to his revised view of Lincoln or of the American founding. In fact, he is strangely silent about the whole subject, leaving it to the reader to figure out the relation between the two remarkably different accounts in *Crisis* and *New Birth*. Here and there, to be sure, he has publicly admitted that in the first book he underestimated the founding and so somewhat misunderstood Lincoln. Of this "misunderestimation," to use George W. Bush's marvelous term, Jaffa breathes not a word now. Instead, he playfully compares the long interval between his Lincoln books to the similar period said to separate Plato's *Republic* and *Laws*. Is Jaffa trying to tell us something?

If we were to take the comparison seriously, Jaffa would seem to be saying that, like Plato's *Republic*, *Crisis* showed the nature of the political or the limits of politics, whereas *A New Birth of Freedom*, like Plato's *Laws*, displays a more diluted form of natural right, a second-best regime that is more tolerable to human nature. There is, in fact, something to the comparison.

In *Crisis*, Jaffa emphasized Lincoln's magnanimity, his nature as a great-souled man. At the same time, Jaffa highlighted the paradox that a nation dedicated to the principle of human equality depended for its survival on human inequality, on political founders (like George Washington) and saviors (above all, Lincoln) defined by heroic qualities of virtue and soul. The willingness of great men to enlist in the cause of the common man, however, showed that truly magnanimous human beings were conscious of the limits of political life — the impossibility of perfect justice — and yet accepted those limits with dignity, knowing that perfect happiness lay in higher things. In *New Birth*, by contrast, Jaffa offers no thematic discussion of human greatness and, if memory serves, mentions magnanimity only in a footnote.

As a work of art, *A New Birth of Freedom* falls short of the virtuoso standards Jaffa achieved in *Crisis of the House Divided*. The new book has many beautiful and moving passages, but lacks the overall control of the earlier volume.

Nevertheless, *New Birth* is the more ambitious and, in some respects, the more original book. Jaffa sets out to explain why Lincoln thought that his struggles against slavery and for the Union and free elections were really one-and-the-same. The idea uniting them was the self-evident truth of human equality and its corollary, social compact theory. Jaffa devotes some of his best pages to proving that equality and the social compact (he seldom uses the term "social contract" in this book) were regarded by Lincoln and the founders as essentially the same idea. One concept implied the other, and the notion of majority rule presupposed both.

Republican government was thus impossible without equal rights; majority rule illegitimate without respect for minority rights; and both the majority and the minority were bound by the limited purposes of the social compact, originally authorized by the unanimous consent of everyone. This American idea of the social compact is inherently high-minded.

In *Crisis*, however, Jaffa had attributed its loftiness not to America but to Lincoln, who had deliberately reconstructed the founders' and John Locke's rather less noble account, dominated by self-preservation and the "egotistic" view of rights. Lincoln "transforms and transcends" the original American understanding of natural rights and the social contract, Jaffa argued in 1959. But now Jaffa quietly affirms, to paraphrase his mentor Leo Strauss, that he had read Lincoln too literally by not reading him literally enough. That is, Lincoln was truly disclaiming originality when he traced "the father of all moral principle in us" back to the Declaration of Independence. Lincoln did not overcome the purposes of the Founding Fathers; he served and fulfilled them.

Lincoln was right about the founders all along, Jaffa in effect argues in *A New Birth of Freedom*. In the book's first two chapters, he demonstrates in bravura fashion what the high-minded view of equality and the social compact implied for America as a way of life; indeed, what they implied for America as the model regime and exemplary empire of the modern world. Moving back and forth between the election of 1860, when the losers appealed from ballots to bullets, and the election of 1800, when for the first time in human history power "passed from one set of hands to those of their most uncompromisingly hostile political rivals and opponents because of a free vote," Jaffa shows how novel was the idea of a political order governed by free elections. Nothing seems more American, and yet the peaceful transition of power was a somewhat shocking surprise when it happened in 1800, and by 1860 a rather shocking surprise when it did not happen.

This quadrennial miracle is possible, Jaffa writes, only when political parties agree more than they disagree; in particular, they must have a consensus on the meaning of equality and the social compact. Such a consensus is possible only if questions of revealed religious truth are excluded from politics and from determination by political majorities, and Jaffa is at his most eloquent and original when he takes up this issue. Through a brilliant account of Reformation politics in England, using Shakespeare's history plays as his guide, Jaffa explains how the separation of church and state came to be a necessary condition of the rule of law in modern constitutionalism, for the sake both of Christianity and of republican politics. It is a highlight of the book and one of Jaffa's most impressive contributions to political science.

Jaffa praises Jefferson and Madison for their role in fostering the American political consensus in the 1800 election campaign and its aftermath, though surely John Adams deserves some credit, too. At any rate, this consensus had failed by the election of 1860, thanks largely to the increasing influence of John C. Calhoun's political principles, as Jaffa shows convincingly.

This consensus is tattered today also, thanks not merely to electoral shenanigans in Florida but also, and much more importantly, to the deepening influence on the

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American mind of relativism, progressivism, and historicism. Jaffa confronts these destructive currents of thought in two ways in *New Birth*. First, he takes Carl Becker's famous book, *The Declaration of Independence: A Study in the History of Political Ideas*, published in 1922, as an epitome of these 20th century schools of thought, and subjects it to a devastating critique. Becker proclaimed that "to ask whether the natural rights philosophy of the Declaration of Independence is true or false is essentially a meaningless question." Jaffa proves that it is not only not a meaningless question but that it's a question to which Becker himself knew the answer — to which any reasonable human being knows the answer. It took, in other words, all of Becker's academic sophistication to enable him to deny the obvious, the self-evident.

At the roots of Becker's irrationalism, Jaffa discerns the fashionable doctrines of German historicism and American progressivism. He thus illuminates the fateful steps by which more and more Americans in this century disarmed themselves of what Jefferson called their natural weapons, free argument and debate. Jaffa's reasoning against Becker goes far deeper than his strictures in *Crisis* against James G. Randall and the revisionist historians.

The second way that Jaffa opposes modern irrationalism comes to light in his treatment of Calhoun. Casting Calhoun as a radical thinker with doctrines shaped by Rousseau and Hegel and anticipating those of Marx and Darwin, Jaffa depicts the confrontation between Lincoln and Calhoun's disciples as an epic clash. On the one side, the Calhounites stood for radical modernity, for various kinds of irrationalism, collectivism, and servitude. On the other, Lincoln appears as the defender of reason, human freedom, and self-government; as the embodiment of the prudent common sense of Aristotle, Locke, and the American founders.

For Jaffa in *A New Birth of Freedom*, Lincoln is the profoundest defender of American republicanism, and American republicanism is a kind of counterpart to the ancient city and to the holy city of the medieval world. It is the political form that the love of the common good and the love of God must reasonably take in the modern world, shaped as it is by Christianity and science.

What becomes of Lincoln the statesman in Jaffa's book? In successive chapters, Jaffa provides a kind of Churchillian history of the secession winter of 1860-61, told via flashbacks and astute commentaries on Lincoln's major speeches and messages. Always Jaffa follows the Churchillian rule of describing the scene primarily as it appeared to the statesman, knowing what he did, when he did it. All in all, Jaffa shows the inner unity of Lincoln's words and deeds with an intelligence and loving care never before equaled.

The late Edward C. Banfield once explained pungently Jaffa's delay in writing this sequel: "*Crisis of the House Divided* is a helluva hard act to follow." So is *A New Birth of Freedom*, though Jaffa promises us another installment in his wonderful study of Abraham Lincoln.

Charles R. Kesler is Editor of the Claremont Review of Books.

States' Rights and the Union: Imperium in Imperio 1776-1876, by Forrest McDonald, (Lawrence, Kan.: University Press of Kansas), 272 pages, $29.95 (cloth).

When in the Course of Human Events: Arguing the Case for Southern Secession, by Charles Adams, (Lanham, Md.: Rowman & Littlefield), 277 pages, $24.95 (cloth).

RECIPES FOR ANARCHY

IN WHICH LIBERTARIANS AND SLAVEHOLDERS FIND COMMON CAUSE

BY HERMAN BELZ

Nothing would seem more opposed than the libertarian spirit and the spirit of slavery. But a growing body of libertarian writing has emerged in recent years that takes its political inspiration from the slaveholders' rebellion that started the Civil War. Two new books on states' rights provide occasion for examining major themes in this libertarian project.

States' Rights and the Union is a scholarly work by Forrest McDonald, himself no libertarian but a distinguished academic historian known for his hard-headed, somewhat irreverant, more or less traditional analysis of American political history. Charles Adams, the author of *When in the Course of Human Events*, is a tax expert here making his debut as a scholar of the American Civil War, with the endorsement of a chorus of leading neo-secessionist academicians. Obvious differences in literary style and historical method distinguish the two books. McDonald, a master of traditional narrative, gives us a cool, concise survey of political controversies over federal-state relations. Adams, deploying an eclectic and polemical historicism, roams widely across time and space in search of evidence to contradict the "force-fed Lincoln adoration" that he believes has kept historians from telling the truth about the Civil War. What both writers share, however, is a conviction that secession was a constitutional right.

McDonald's thesis is that, against the assumption of received political theory that sovereignty was a whole thing that could not be divided, American constitution makers divided sovereignty between the states and the federal government. McDonald's challenge is to show that secession was consistent with the nature of the Union based on this principle, without being too obvious about it. Subtlety of argument is needed because the logic of divided sovereignty would seem to require that in a constitutional system based on this principle, neither government can reduce the other to itself or otherwise destroy it. From an historical point of view, moreover, if secession was obviously constitutional, it is difficult to understand why it was so controversial.

McDonald's rhetorical strategy is to announce at the outset his intention deliberately to shun the technical questions that specialists love, focusing his survey on the larger contours of the subject. Like all previous writers on the constitutional controversy leading to the Civil War, however, McDonald employs key theoretical propositions. Those on which his account rests place him on the secessionist side of the debate.

With the economy of a scholar who has never been much for theory, McDonald reduces the problem of the nature of the Union to two essential concepts. They are state popular sovereignty and federal government agency. McDonald states that the Declaration of Independence transferred sovereignty — in the English sense of indivisible supreme power — to the people of the several states as independent political communities. Congess "inherited responsibility, as agent of the states," for the conduct of war and foreign affairs. This relationship between sovereign state peoples and Congress as their agent persisted under the Constitution of 1787, which was ratified separately by the people of each state in popular conventions. According to McDonald, states' rights theory was modified by the Kentucky and Virginia Resolutions of 1798, which viewed the states rather than the people of each state as bearers of sovereignty and the constituent power in the Union. This shift in the locus of state sovereignty did not alter the agency status of the federal government.

Readers may not grasp the significance of this point, but to regard Congress as the agent of the states, or the peoples of the states, is to deny it authority as a sovereign government. Of course there was much talk about dividing the powers of government between the states and the federal government. One can call this government sovereignty, as McDonald does in describing the notion that governments at different levels have certain responsiblities, inherent in which is the power to carry them out. However, sovereignty in the deepest sense—the ultimate power to command, judge and dispose—resided in the people of the states as independent political societies.

McDonald says each people entrusted sovereignty in some matters to Congress, in other matters to their state governments, and in still other matters they reserved sovereignty to themselves. This reserved sovereignty in "still other matters"—including their self-preservation as a society, as southern secessionists tirelessly reiterated—comprehended the power to make and unmake constitutions. It rendered the authority of the U.S. Constitution dependent on the personal consent of each separate state people, or

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each state as a political society. In McDonald's divided sovereignty the state-federal relationship of principal and agent, grounded in "the nature of things," is the key to understanding the nature of the Union.

To give both sides of the story, McDonald, describing the making of the Constitution, jumps ahead to the Civil War to consider Lincoln's theory of the Union. The strategy here is to show the constitutionality of secession by showing Lincoln's case against it to be constitutionally incorrect. The nationalist theory holds that in 1776 the people of the whole country, acting in Congress as a national people, made the colonies into states and formed the Union. Although conceding the theory was supported by some facts, most notably the reference in the Declaration of Independence to Americans as "one people," McDonald declares the nationalist interpretation "untenable." He offers some technical reasons for this view, such as the fact that Congress "recommended," rather than ordered or directed, the colonies to make state constitutions and governments. In a substantive sense, however, the nationalist theory of the nature of the Union is in McDonald's view untenable because the existence of sovereign state peoples precludes the co-existence of a national people as the bearer of sovereignty. We are back to the axiomatic principle that whatever powers might be ascribed to the federal government in the rhetoric of divided sovereignty, those powers are held at the sufferance of sovereign state peoples or states as independent political societies.

Charles Adams, a zealot by contrast to McDonald, presents secession as an obvious constitutional right. In his more straightforward argument the "general principles of secession" are signified in the rights of popular consent and self-determination proclaimed in the Declaration of Independence. In making the Constitution, sovereign states explicitly reserved the right of secession, evident in ratification resolutions stating: "the powers granted under the Constitution, being derived from the people of the United States, may be resumed by them, whenever the same shall be perverted to their injury or oppression." It is self-evident to Adams, as it was to English writers whom he quotes, that America was founded on the right of a people by popular consent to secede from a larger nation when it no longer served their needs and interests. In this view the principle of secession is the foundation of American constitutional liberty.

Adams's case for secession, more passionate political expletive than reasoned legal argument, aptly reflects the southern disunionist mentality. For secession was always more effective as a tactic of political intimidation than as a serious claim of constitutional immunity for state action aimed at nullifying federal government policies.

By design one might say, the nature of the Union under the principle of divided sovereignty—a "partly federal, partly national" system—was ambiguous. On the one hand, state governments were in effect encouraged to devise various forms of "interposition" against objectionable federal measures that could be viewed as destroying the constitutional compact. The government of the Union, on the other hand, found ways justifiably to enforce its laws against actions of state citizens and governing personnel that could be viewed as rebellious.

Control of the government of the Union was the paramount object of federal-system political competition; states' rights was a default strategy. Evaluating the South's claim that secession was constitutional, a northern commentator observed after the Civil War: "In a federal system one weapon of the minority is sure to be the menace of withdrawal or disunion." This was not a claim of constitutional right, however, but an assertion of revolutionary resistance. "Secession was revolution," the Unionist writer argued, and the question in 1860, as in earlier disunionist crises, was whether certain states, or the people of certain states, had "sufficient reason and sufficient power to revolutionize the existing government, and substitute something else in its place."

It is true, as today's neo-secessionist writers point out, that disunionist threats issued from all parts of the country, not the South alone. But disunionist discourse can hardly be said to prove the existence of a constitutional right of secession, as libertarian theorists contend. McDonald, who is careful not to refer to secession explicitly as a constitutional right, recognizes this fact in describing the reaction to Lincoln's election: "And then the South . . . transformed the threat of secession into a reality." McDonald is content to insinuate an implied right of secession into his account of how South Carolina pulled out of the Union: "A convention elected by the sovereign people of a state had voted to enter the constitutional Union, and in keeping with the theory underlying the Union, the same instrumentality was used to depart from the Union." McDonald concludes: "South Carolinians knew their constitutional history, and acted accordingly."

But was South Carolina right in its construction of the Constitution? Did a single state or group of states, of their own volition, have a constitutional right unilaterally to withdraw from the national compact? In the antebellum period nationalists were not the only ones to question the constitutionality of secession; after the nullification crisis a Madisonian antisecession argument emerged within the states' rights tradition. Lincoln appealed to this point of view in his first inaugural in suggesting that even if the Union be considered an association of states in the nature of a contract merely, it could not as a contract be peaceably unmade by less than all the parties who made it. Each time a threat of secession was made in federal-state controversies, it was met with the charge of rebellion and treason. While recognizing genuine controversy over the limits of state and federal powers, Unionists considered it absurd to contend that a state, or the people of a state, had a constitutional right to overthrow the government of the Union.

McDonald correctly observes that southerners seceded not out of desperation, but with supreme self-confidence in their ability to exist as an independent nation. Believing in their racial superiority, convinced that slavery was a positive good, accustomed to controlling the federal government as their agent, southerners claimed secession as a strong right that at once gave them constitutional immunity and the moral high ground. Such a right would place free state governments, the government of the Union under the prospective Lincoln administration, and anyone who opposed secession under a legal and moral obligation not to interfere with whatever action was necessary to take their states out of the Union and set up as independent political societies.

Yet even as they claimed to exercise a constitutional right, southerners reflected awareness that their action was revolutionary. Confederate Vice-president Alexander Stephens, in his "Cornerstone Address" in March, 1861, spoke glowingly of participating in "one of the greatest revolutions in the annals of the world"— a revolution "signally marked, up to this time, by the fact of its having been accomplished without the loss of a single drop of blood." Jefferson Davis exclaimed in January, 1861, "If I must have revolution, let it be a revolution such as our fathers made when they were denied their natural rights." The difference between the American Revolution and southern secession, according to Davis, was that whereas the British denied the right of revolution, causing the movement for American independence to be bloody, "in this age of civilization and political progress" the doctrine of "the power of the people to abrogate and modify their form of Government" would be admitted without bloodshed.

Secession as an instrument of political intimidation almost succeeded. A kind of moral disarmament came over a large portion of the northern public in the winter of 1861, giving secessionists the opportunity, had they been more patient, to put the Lincoln administration in an untenable political situation. Yet, as a reflection one may suppose of the imperious attitude inculcated by slavery, Confederate leaders lacked prudence and moderation. Claiming constitutional protection to destroy the Constitution, they resolved the crisis of the Union by attacking Fort Sumter. This action marked the "appeal to heaven" universally acknowledged as the ultimate means of exercising the right of revolution. Through superior statesmanship and a more profound understanding of the nature of the Union, Lincoln was able to defend the sovereignty of the federal government by treating secession as unjustified revolution.

The Civil War, McDonald observes, was "the ultimate test of the nature of the federal union." Does this mean the outcome of the war showed what was always the true nature of the Union, despite federal-state constitutional controversy? Or does it mean that the war was a trial to determine what the nature of the Union would be in the future? In *Texas v. White* (1869), the Supreme Court declared secession unconstitutional on the ground that "the Constitution in all its provisions, looks to an indestructible Union composed of indestructible States." McDonald says the decision settled for all time the question whether secession was a constitutional possibility. Adams, with other libertarian neo-secessionists, holds that the question of a constitutional right of secession was not resolved by the Civil War. Reflecting the strange political intelligence manifested by their proslavery intellectual forebears, libertarians concede the ineptitude and bad judgment of the southern decision to exercise the right of secession by military means. They find vindication, however, in the conclusion, expressed by David Gordon, a leading neo-secessionist theorist, that "a group may secede imprudently, but act within its rights."

Properly understood, the principle of divided sovereignty meant that neither the states nor the federal government could destroy the other. The limits on the ability of each government to interfere with the exercise of essential powers and existence of the other were not merely expedient, but constitutional and moral. Secession was not only impractical, but intrinsically wrong. As postulated by southerners, its real meaning was that the Constitution and laws of the United States—despite appearances to the contrary resulting from membership in the Union—never imposed binding legal and moral obligation on a state or the people of a state, but only such obligation as a state or a people were personally willing to recognize. The southern theory of the nature of the Union, in other words, was that the states or peoples of the states, after ratifying the Constitution, were in reality sovereign nations. It was this concept of Union, the logic of which led secessionists to claim as a constitutional right what Lincoln called "the essence of anarchy," that was incapable of being maintained and defended.

Herman Belz is a professor of constitutional history at the University of Maryland, College Park and editor of The Webster-Hayne Debate on the Nature of the Union: Selected Documents (Liberty Fund, 2000).

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COVER STORY

FORCED INTO GORY LINCOLN REVISIONISM

BY LUCAS E. MOREL

Forced Into Glory: Abraham Lincoln's White Dream, by Lerone Bennett, Jr. (New York: Johnson Publishing Company, 2000), 652 pages, $35 (cloth).

Lerone Bennett, Jr. published an article in the February 1968 issue of *Ebony* magazine that posed the question: "Was Abe Lincoln a White Supremacist?" He answered in the affirmative. Thirty-two years later, *Ebony*'s executive editor has expanded his six-page critique into a book of more than 600-pages. As the new title suggests, Bennett believes Lincoln was "forced into glory" against his personal and political wishes by "the real emancipators," black and white abolitionists (among others), to whom the book is dedicated. At the heart of his revisionist appraisal of Lincoln's legacy is the claim that the Emancipation Proclamation did not free a single slave, nor was it Lincoln's intention to do so. If the "great emancipator" had his way, Bennett says, he would have instigated "the racial cleansing of the United States of America."

Where to begin?

Never has so much been so wrong about so important a subject. The only way to misrepresent Lincoln more would be to misspell his name. Add to this Bennett's denigration of George Washington, Thomas Jefferson, Booker T. Washington, Winston Churchill, Ronald Reagan, and conservatism generally, along with frequent references to Lincoln's endorsement of "ethnic cleansing" and a "final solution" to the race problem, and his diatribe becomes almost impossible to take seriously.

Bennett allows Lincoln's rivals to second-guess Lincoln's own explanations for what he was attempting to do as president of a republic during a rebellion. Bennett's attempt to understand Lincoln's principles and policies on American slavery falters on so many fronts that it would be impossible to document all of his errors. Given constraints of space, I will focus on the greatest misunderstandings, especially as they pertain to the American form and practice of self-government.

Although Frederick Douglass heads the list of "real emancipators" in his dedication, Bennett quotes selectively from his "Oration in Memory of Abraham Lincoln" (1876). To portray Douglass as a tepid supporter of Lincoln, Bennett violates his own admonition against "the fallacy of the isolated quote" by highlighting only criticisms of Lincoln by the famous abolitionist speaker. Douglass did say that Lincoln "was preeminently the white man's President, entirely devoted to the welfare of white men." But Bennett omits several passages that show Douglass's more sober and deliberate assessment of Lincoln. Unlike Bennett, Douglass praised the Emancipation Proclamation as "the immortal paper, which, though, special in its language, was general in its principles and effect, making slavery forever impossible in the United States."

Douglass concluded that if Lincoln "put the abolition of slavery before the salvation of the Union, he would have inevitably driven from him a powerful class of the American people and rendered resistance to rebellion impossible." It's as if he grows in his understanding of Lincoln's statesmanship as the speech progresses. But Bennett sours from the very beginning, unable to appreciate with Douglass the great difficulty of Lincoln's task and the nobility of what he accomplished.

Bennett also dedicates his book to a couple of "radical humanitarians," John Brown and Wendell Phillips. (Bennett crosses abolitionist William Lloyd Garrison off his list because he was a Lincoln supporter in 1864.) These so-called freedom-lovers sought to free Americans by preaching against the limitations of constitutional self-government and free elections. Bennett admits these and other abolitionists "inflame" public opinion and "create contempt" for the Constitution, but he applauds them for it because of the purity of their motives.

Upon finding several of Lincoln's contemporaries complaining of his contempt for abolitionists, Bennett concludes that Lincoln did not, in today's parlance, "feel the slaves' pain." A better indication of Lincoln's personal feelings regarding the plight of slaves, however, can be found in an 1855 letter he wrote to his best friend, Joshua F. Speed: "I confess I hate to see the poor creatures hunted down, and caught, and carried back to their stripes, and unrewarded toils; but I bite my lip and keep quiet." Lincoln also reminded Speed, a Kentucky slaveholder who professed "the abstract wrong" of slavery, of the shackled slaves they saw onboard a steamboat they rode in 1841: "That sight was a continual torment to me."

Lincoln's refusal to join the abolitionist cause derived not from callous indifference toward the slave but from principled devotion to the American regime — a form of government that would extend its protection of freedom as far as the governed would allow. As he put it to Speed, "I also acknowledge your rights and my obligations, under the constitution, in regard to your slaves." Lincoln, in short, distinguished his personal sentiments from his political responsibility regarding a subject that had "the power of making me miserable."

Lincoln's hesitation to emancipate slaves during the Civil War derived from his recognition that the American experiment in self-government was in danger. "We already have an important principle to rally and unite the people in the fact that constitutional government is at stake," he wrote. "This is a fundamental idea, going down about as deep as any thing." Lincoln was at pains to figure out how to preserve a constitutional regime from the physical force of rebellious southerners as well as the rhetorical force of rebellious abolitionists: the former were unwilling to obey a duly elected Republican administration, while the latter were unwilling to support a constitutional union of freemen and slaveholders. To act simply according to an abstract truth about the natural equality of human beings — by proclaiming the natural injustice of slavery — without acting in accordance with the coeval truth that government can act legitimately only by the consent of the governed, would be to subvert the very form of government and law-abiding habits that make for a free society.

The Constitution vests limited powers in the three branches of the national government. This was always Lincoln's understanding, and one he reiterated at the outset of his First Inaugural Address as it pertained to slavery in the South. "I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists," he said. "I believe I have no lawful right to do so." The Constitution restricted what Lincoln as president could do about "the peculiar institution," and as the most deliberate and settled will of the American people, the Constitution stood as the political lodestar for Lincoln.

Upon what authority, then, did he proclaim freedom to slaves in the South almost two years later? As the final Emancipation Proclamation states it: "by virtue of the power in me vested as Commander-in-Chief, of the Army and Navy of the United States in time of actual armed rebellion against authority and government of the United States, and as a fit and necessary war measure for suppressing said rebellion." The nation had moved from peace to war since his inauguration, which legitimated his war-making authority; in addition, Lincoln judged that the uneven progress of the war now called for eliminating the support that slavery gave to the southern war effort.

Lincoln gave the clearest statement of his intention as president and commander-in-chief regarding slavery and the war effort in response to a public letter by *New York Tribune* editor Horace Greeley. "My paramount object in this struggle is to save the union, and is not either to save or to destroy slavery," Lincoln wrote. "If I could save the Union without freeing any slave, I would do it; and if I could save it by freeing all the slaves, I would do it; and if I could save it by freeing some and leaving others alone I would also do that." Of course, he led the nation through all three scenarios by the time of his second inauguration, at which point the 13th Amendment had been approved by Congress and was on the way to state ratification by year's end.

COVER: PHOTO ILLUSTRATION BY MARTIN GEE. PHOTOGRAPH: © CORBIS.

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COVER STORY

Lincoln's devotion to the constitutional union took precedence over the abolition of slavery, but in a way that set the nation on a course of ridding itself of slavery. Miss this, as Bennett does from cover to cover, and you misunderstand the Emancipation Proclamation and its connection to the Union war effort. Lincoln's apparent hesitation to free slaves simply cannot be understood without a clear understanding of his constitutional obligations, which Bennett overlooks completely.

Bennett also claims that Lincoln deliberately undermined the proclamation by its selective application: "What Lincoln did — and it was so clever that we ought to stop calling him honest Abe — was to 'free' slaves in Confederate-held territory where he couldn't free them and to leave them in slavery in Union-held territory where he could have freed them." This argument implies that what Lincoln should have done regarding slavery concerned only military might, and not constitutional right. But Lincoln omitted the so-called "border slave states" of Missouri, Kentucky, Maryland, and Delaware from the Emancipation Proclamation because they were not in rebellion against the federal government and therefore its citizens deserved the full protection of their constitutional rights.

The explicit exceptions Lincoln made of southern, slave-holding areas under Union-army control prior to January 1, 1863 (i.e., the counties constituting West Virginia and portions of Virginia and Louisiana) also fall under this category. When Treasury Secretary Salmon P. Chase argued for applying the Emancipation Proclamation to the exempted areas of Virginia and Louisiana, Lincoln replied he could only do so "without the argument of military necessity, and so, without any argument, except the one that I think the measure politically expedient, and morally right." He added, "Would I not give up all footing upon the constitution or law? Would I not thus be in the boundless field of absolutism?"

Lincoln shows that a president, even acting as commander-in-chief, must exercise authority not as a dictator — benevolent or otherwise — but within the limits set forth by the Constitution. Lincoln wanted to rid the nation of slavery, but not at the price of free government.

As for the claim that the Emancipation Proclamation was a dead letter to slaves behind Confederate lines, Lincoln committed "the Executive government of the United States, including the military and naval authorities thereof," to "recognize and maintain the freedom of said persons." Slaves escaping from their rebellious masters would no longer be viewed as fugitives from justice but receive legal protection of their freedom by the national government. For Bennett, this amounts to an empty promise because the slaves were free only on paper and not in practice. But what alternative was there for slaves behind enemy lines?

As Lincoln himself admitted only nine days before his preliminary proclamation: "Would my word free the slaves, when I cannot even enforce the Constitution in the rebel states?" He therefore waited for a Union victory as a sign that as commander-in-chief he could back ink on paper with swords on the battlefield.

Bennett chides Lincoln for promoting gradual, compensated emancipation and the colonization of freedmen as the means of achieving his dream of a "lily-white America." In this context, Bennett asserts that the preliminary proclamation, announced 100 days before its implementation on January 1, 1863, was merely a ruse to delay emancipation until Lincoln could persuade Congress to "deport" all blacks from the United States. Lincoln did favor gradual emancipation as well as colonization of blacks, but not because he was a white supremacist. Although he recognized the manifest injustice of slavery, he also believed that emancipation was at best only half the battle. As George Anastaplo observes in his excellent *Abraham Lincoln: A Constitutional Biography*, one then had to devise a way for former masters and former slaves to live with each other as free men.

Bennett makes no allowance for sensible and learned men like Lincoln to believe that American blacks and whites en masse simply would not live peaceably with each other at the close of an oppressive history. The racial divide still present in America today confirms the difficulty Lincoln, Tocqueville, and others anticipated when former slaveowners and former slaves, and their descendants, continued to reside in the same territory.

Bennett's exercise in exasperation over Lincoln as the Great Emancipator displays his woeful ignorance about the principles and practices of American self-government. Lacking even a rudimentary grasp of how the ideas of human equality and the consent of the governed inform the constitutional operation of the American government, it's no wonder Bennett is unable to grasp Lincoln's political prudence. Bennett concludes, "There is thus nothing we can learn from Abraham Lincoln about race relations, except what not to say or do." By reading Forced Into Glory, one learns nothing from Lerone Bennett about the requirements of statesmanship within a constitutional democracy. With Lincoln as his tutor instead of his target, you would think he might have learned something.

Lucas E. Morel is Assistant Professor of Politics at Washington and Lee University and author of Lincoln's Sacred Effort: Defining Religion's Role in American Self-Government (Lexington Books, 2000).

GREEN
Continued from page 7

Roosevelt and his contemporaries, man was an integral part of nature, and preserving wilderness had an important part in the moral education of Americans. For Roosevelt in particular, the harsh testing of wild nature contributed to the manliness of citizens, which was becoming lost in the comforts that modern industrial society increasingly provided.

Even though the idea of "scientific management" of Progressive Era conservationists contributed to the edifice of the administrative state, they had the politics and metaphysics of the issue largely right. It may be possible to dissociate the bureaucratic consequences of their thought from their political bedrock in a way that provides a reformed conservationism fit for today's needs. Matching up the best parts of *Hard Green* with *Conservation Reconsidered* may begin to provide for conservatives a way out of the political wilderness.

Steven Hayward is senior fellow at the Pacific Research Institute in San Francisco, and author of the annual Index of Leading Environmental Indicators, released each year on Earth Day.

TALK
Continued from page 7

of torture) are clearly right and are as important as democracy itself," Levine writes. "Nevertheless, it would be a mistake to dictate these positions, even if one were king for a day." Here is that awkward but stubborn contortion: there are things we know to be bad, but refuse to recognize as such—the tribute that relativism pays to foolish consistency.

Just as his moral vertigo makes it difficult to keep his philosophical argument straight, Levine's amalgam of policy proposals falls under the weight of its own incoherence. For instance, he decries the influence of corporate lobbyists and other special interests, pining instead for a government devoted only to the common good. Yet private jockeying for government favors is actually quite reasonable, even to be expected, once one accepts the premises of Progressivism. Despite all his wishing for more moral deliberation, in a Progressive regime there really isn't anything serious to talk about. If all moral positions are equally valid, at least instrumentally, then the only thing to dispute over in politics finally is who gets what. And lacking any fixed principle (e.g. the natural right to keep the property one has earned) to guide such disputes, unseemly jostling at the public trough is hardly the worst arrangement. Limited government and private property would have to be respected, Levine observes, if they "reflected pure principles of reason or embodied natural and inalienable rights." But of course, he thinks, they do not.

On a slightly more generous note, there is a certain modesty to Levine's progressivism. His reluctance to say that anything is simply right or wrong, and his deference to popular opinion (even when he laments such opinion as selfish or uninformed), saves his politics from a more radical fervor. In discussing the Students for a Democracy Society and its attempts to promote civic revitalization in urban neighborhoods, Levine notes the delightful case of a SDS "non-project" in Hoboken, New Jersey. Eager to avoid any misplaced confidence in the rightness of their own opinions, Levine writes, "the 'organizers' decided to take no action beyond finding blue-collar jobs and waiting for the working class to mobilize itself."

Now there's an idea.

Glenn Ellmers is Associate Publisher of the Claremont Review of Books.

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MUSIC, PHILOSOPHY, AND GENERATION Y

BY MARTHA BAYLES

"Is there such thing as an evil sound?"

That question, one of the most interesting I've been asked, was posed by a young musician named Kevin Max Smith at a lecture I gave in Nashville to a group of rock musicians who were also evangelical Christians. Smith was with a band called dc Talk, which started out as a rap group then switched to a mixture of styles. But many genres were represented in the room, including heavy metal, which is usually not associated with Christianity.

Smith's question cut to the heart of the ancient view of music, older than Christianity, that I call didactic. The ancients ranked musical sounds in a hierarchy understood to be causally related to the hierarchy of human virtues and vices, in the soul and in the polity. Says Socrates in Plato's *Republic*: "Never are the ways of music moved without the greatest political laws being moved." Confucius, incidentally, said something similar: "If you would know whether a people are well governed, and if its laws are good or bad, examine the music it practices."

I respect this didactic view because it respects the powers of music. These powers range widely. At one end of the spectrum, music has the power to soothe, to calm, to "sing the savageness out of a bear," in Shakespeare's words. At the other end, music can also drum the savageness back into the bear. Flaubert had this in mind when he wrote sarcastically, "Music makes a people's disposition more gentle: for example 'The Marseillaise.'"

This is why the ancients sought to control the effects of music. Allan Bloom summarizes Socrates' teaching with his customary eloquence. "The taming or domestication of the soul's raw passions," he writes, must not mean "suppressing or excising them, which would deprive the soul of its energy" but rather "forming and informing them." The trouble comes when we try to apply this wise abstraction to actual music. To do so is to shoot at a moving target, because Western music has long been violating Plato's specific prescriptions.

For example, Plato taught that too much music confuses the mind and distracts from logos. The Hebrew prophets took the same view, which is why early Christians spurned the rich instrumental homophony of pagan music in favor of a spare vocal monophony, a single melodic line sung without accompaniment. But during the late Middle Ages, the monks in Notre Dame began to interpolate new sections of chant containing more than one melodic line. This switch to polyphony, or harmonic counterpoint, gave birth to the glories of Western music.

To put my point in a nutshell: we may believe that Bach and Mozart are good for the soul and good for the polity, but we should also keep in mind that they violate quite promiscuously the specific rules set down by Plato.

Where does that leave us? Disinclined, probably, to issue any specific decrees about musical sounds. To the question posed above, "Is there such a thing as an evil sound?", my initial response is "no." No sound by itself is evil. Sounds that are harsh, ugly, or disturbing can be used in aesthetically and morally admirable ways. And the sweetest, most pleasing sounds can be put to evil uses. So it's a matter of how the sound is employed.

If we look at contemporary music in Socratic terms, and ask how well it is forming and informing the raw passions of individual souls and of the polity, what do we see?

To judge by the opinion of many experts, we see a stratified musical landscape in which some people listen to "serious" music, others to "popular."

For some critics of our democratic culture (Allan Bloom again), the mere existence of vulgar music exerts a fatal and irreversible downward pressure on the soul, the culture, and the polity. It's a persuasive argument, if all we look at is Mozart on

PHOTOGRAPH BY JAMES COLLIER.

the one hand, and the grossest and most offensive popular music on the other.

Which is pretty much what Bloom did in his famous chapter on music in *The Closing of the American Mind*. He focused on the stuff that Tipper Gore went after in those famous Senate hearings of the mid-'80s: rapaciously violent heavy metal, hardcore and punk bands out to shock what was left of the bourgeoisie; Madonna in her underwear phase; Prince at his most priapic.

I, too, have criticized this vulgarity. But I also contend that the vilest strain of popular music, and of popular culture in general, arises less from ordinary vulgarity than from cultivated perversity.

American popular music has not always been vile. On the contrary, certain strains of it, notably popular song and jazz, have achieved worldwide distinction in a century when so-called serious music embraced rationalism, mathematics, noise, and games of chance to the point of cutting itself off from the educated as well as the popular audience.

If you look closely, you see that the most troubling impulses in popular music came from the artistic elite. The process began in the late 1960s, when the counterculture went sour, and rock'n'roll began to attract the sort of people who were less interested in music than in using such a popular medium for their own culturally radical purposes.

Prior to that, rock'n'roll was vulgar, but not culturally radical. It was inferior in some ways to the musical culture that had produced Louis Armstrong, Benny Goodman, and Frank Sinatra. But rock also shared many positive traits with the older musical culture, such as a stance of old-fashioned courtesy toward the audience. That persisted into the mid-1960s in soul music, Motown, and the early Beatles.

Then came the transformation. Concerning Mick Jagger, Bloom's instincts are right on target. Jagger's stage persona does express a kind of pop-Nietzschean erotic liberationism. The Rolling Stones relished the blues, especially the rough-edged Chicago blues. But coming from the hothouse atmosphere of British art colleges, they also turned the blues into a vehicle for shocking the bourgeoisie.

More drastic was the transformation wrought by groups marginal at the time but since lionized. Inspired by cutting-edge visual artists and avant-garde theater, Frank Zappa, Iggy Pop, Alice Cooper, and the New York Dolls put on stage shows that resembled "happenings" more than concerts. In turn, they helped to inspire punk, the 1970s phenomenon that was, and is, a form of performance art, not music. The pure legacy of punk, which pervades gangsta rap as well as much alternative rock, is a cult of in-your-face attitude and (in punk, at least) musical incompetence.

Does this stuff have an unhealthy effect on our souls and our polity? It's hard to argue otherwise. There may be no such thing as an evil sound, but we live in a culture very skilled at using all sorts of sounds to create evil effects.

The film soundtrack is a good example. Consider how directors like Quentin Tarantino combine cheerful upbeat music with grisly violence. In *Pulp Fiction* he used Al Green, Kool & the Gang, surf music, Dusty Springfield, and the Statler Brothers to accompany the happy hit men's splattering of blood and guts over everything – a gimmick that creates instant irony, a feeling of detachment from mayhem that is ever so 20th-century.

Quite different is the soundtrack for *Natural Born Killers*. For that film about two young slackers who go around blowing people's heads off, director Oliver Stone asked the industrial rock band Nine Inch Nails to create an accompaniment that, in my judgment, comes close to being evil. Younger readers will recognize it as neck-breaking mosh pit noise. Older readers will imagine a Stealth Bomber forcing its attentions on a threshing machine.

But even so, I can think of good uses for this sound. Scenes of black despair and chaotic passion have their place in great art. Remember Oedipus gouging out his eyes? Or Medea butchering her children? Nine Inch Nails could handle those moments.

Thus I am not issuing any decrees. I do not wish to live in a didactic culture, one that believes and acts on the notion of a one-to-one correspondence between auditory stimuli and characterological effects. That has been tried, and somehow the guys in charge are never philosopher kings.

The worst stuff is still out there, attracting the vulnerable and being defended by pundits and academics who ought to know better. But for people coming of age today – Generation Y, if you will – there is also incredible ferment, as technology brings all kinds of music to all kinds of ears.

This situation of having every variety of music at our fingertips is part of what is meant by postmodernism. The received wisdom, on the right as well as the left, is that this puts everything on the same debased level. I disagree. I think it gives the audience a chance to compare the good with the better, the bad with the worse.

To say this is, I realize, to express far more optimism about democratic culture than the ancients might regard as wise. But consider the positive aspects of the case. Taking the long view of American culture, music included, what do we see?

We see a systematic rejection of snobbery, because snobbery says that to be knowledgeable and cultivated you must be to the manor born, and most of us are not. But at the same time we see a lot of people who acquire knowledge and cultivation by hook or by crook – and then play it down – because they know that the best way to learn about others is to surprise them by not fulfilling their expectations.

We see the widespread belief, against expert opinion, that there do exist fairly objective standards of excellence in the arts: a stubborn tendency to stand in awe of Rembrandt, and to tell the kids that it they don't practice, they won't be able to play like Itzhak Perlman or Artie Shaw.

Finally, we see the conviction that there is such a thing as morality and decency in the arts, and that to be shocked and offended by their blatant violation doesn't make someone a prude or a philistine.

Every kind of audience has its vices. Personally, I find the vices of the democratic audience preferable to those of the elite. Tocqueville, who wrote about the arts in America but sadly failed to mention music, observed that "In democracies, the springs of poetry are fine but few." I'm inclined to turn that around and say that while the springs of great music in America have been few, they have also been very fine.

Martha Bayles is author of Hole in Our Soul: The Loss of Beauty and Meaning in American Popular Music (The Free Press, 1994). She has just completed a memoir on race in America.

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PHOTOGRAPH: © CORBIS.

WINE WITH LUNCH

IT'S GOOD, IN MORE WAYS THAN ONE

BY WILLIAM F. BUCKLEY JR.

Q Mr. Buckley, you were overheard at the Hillsdale College lunch preceding the inauguration the new president, Larry Arnn, to remark that this would be the first time in forty-five years you had had lunch without a glass of wine. Is that true?

A Well, it's true that I said it. Not true that it was in fact the first time in forty-five years. It was maybe the . . . third or fourth.

Q Stop teasing.

A You're right to be impatient. What I suppose I was doing was informally registering my opinion (I'm sorry I was overheard) that cosmopolitan lunches ought to offer wine. I should say this, that I remember ruefully my very first visit to Hillsdale. It was ages before the George Roche era and the gentleman in charge of the college was a teetotaler who imposed his discipline—his taboo—on the entire college.

Q That must have been hard on visiting lecturers.

A On yes, very hard. What they—we—did/do in such circumstances is accept an invitation, almost always extended, from a compassionate conservative on the faculty whose senses the pre-lecture privation, and serves you a glass of wine.

Q Are you unaware of the dangers of addictive drinking?

A Certainly not. Three of my siblings were alcoholics. But my sense of the situation is that to deny visitors a glass of wine is to lay down policy based on the addictive propensities of individual members of the community, and I judge it wrong to make policy on this matter *a posteriori*.

Q But you have to acknowledge that serving wine, e.g., to 200 people, is a burden?

A Serving lunch to 200 people is a burden. But hosts reasonably ask themselves whether the pleasure of a glass of wine compensates for the trouble in making it available.

Q Why should a glass of wine make all that much difference to the diner?

A Why is wine pleasurable? A good subject for research. Meanwhile, the idea is to make wine available, not to force guests to drink it. If you survey table activity, in a cosmopolitan restaurant, whether at midday or in the evening, you will note that acting on their own impulses, somewhere between one-half and two-thirds of diners will ask for wine.

There are two pressures to moderation. The one is a knowledge of what happens to you when you drink too many glasses of wine. That knowledge should be tucked away when you are about 21. The second moderating pressure is economic: wine can be, though is not necessarily, costly. It being the design of hosts to accommodate their guests, the guests' inclinations, when acting on their own in a resturant, should govern, which is a reason for serving wine.

Q What does wine do for you—

A —And what does the absence of wine do to you?

Q Well yes, I was going to add that.

A People who are accustomed to a glass of wine with their meals believe (I certainly do) that it enhances the pleasure of the eating experience. Meat and potatoes taste better, bread tastes better, cheese tastes better, plus also—

Q Yes, the improvement in the taste of food to one side—

A A glass of wine animates most people. The food is better, but also the inclination to enter into convivial relationships—

Q I note the word, convivial—

A —I was hoping that you would. Festive, full-of-life. One can preach that one ought not to be dependent on wine in order to be expansive and sociable, and that preachment is so true as to be offensive when put forward. The question before the house is: When dealing with experienced people, they are the best judges of whether the wine accelerates good humor. They may not a) need wine to be expansive; b) be affected in any way by it; c) welcome its consumption by others. But that oughtn't to affect the question whether it is offered.

Q You mentioned that wine can be costly—

A Yes, but need not be, *sub specie aeternitatis*. I have practically since childhood (my father was a connoisseur) tasted and stocked wine and I observe strict rules of frugality. Make that near-frugality. It is as easy as tasting a half-dozen of what the supplier has on hand, in red and white. What matters is ascertaining that the supplier has deep inventories. There is no point in discovering a nice Zinfandel and learning that there are only two remaining bottles in the warehouse. You shouldn't have to pay more than $10 for a perfectly good bottle of wine.

A friend who is in the business advises me that statistics establish that at parties (which is different from college lunches, different on the extravagant side), you can assume one-fifth of a bottle per person. That's just under two glasses, which amounts to an out-of-pocket cost to the hosts of two dollars. One-hundred guests, two-hundred dollars. Given that caterers these days charge about $35 per person, we are talking about a very small additional increase.

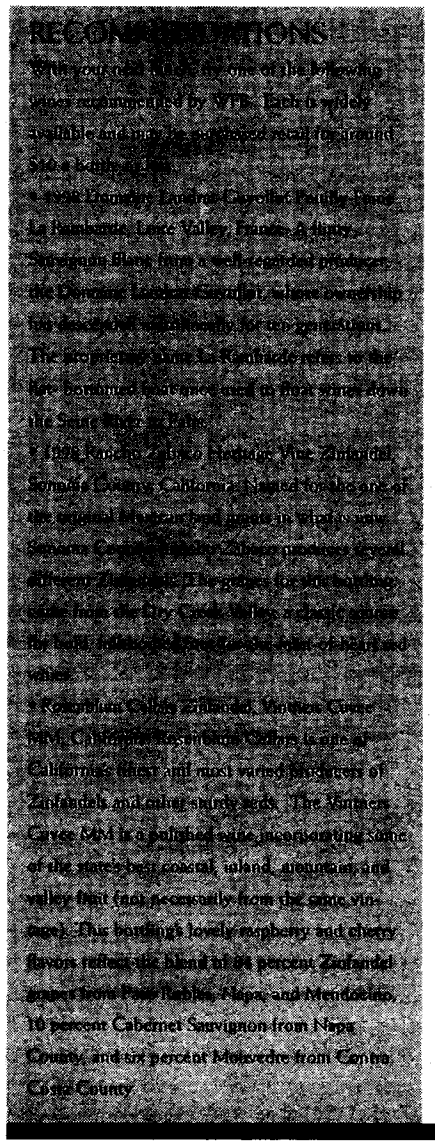
Q Is there, then, a utilitarian reason at such events as Hillsdale's to offer wine?

A Clearly that is so. Guests who are animated also tend to be expansive in ways other than conversation with guests seated to the left and to the right. The guest who had earmarked in his/her mind a gift of $10,000, might, the spirit buoyed, reconsider to make that $15,000.

Q I hope you are not suggesting that wine be served as a catalytic agent—

A No no, I am not suggesting that it be served with that motive in mind. I am remarking very simply that the fruit of the grape can induce the fruit of benefaction, and who's opposed to that? Not the *Claremont Review of Books*, I'd hope.

William F. Buckley, Jr. is editor-at-large of National Review and author most recently of Spytime: The Undoing of James Jesus Angleton (Harcourt Brace).



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